

Notice of Allowability

Application No.

10/069,883

Examiner

Bao Qun Li

Applicant(s)

MALLET ET AL.

Art Unit

1648

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Nov. 06, 2007.
2. ☒ The allowed claim(s) is/are 56, 64-67, 71-76, 83-90.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some* c) ☐ None of the:
- ☒ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date _____
- ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
- ☐ Notice of Informal Patent Application
- ☒ Interview Summary (PTO-413), Paper No./Mail Date 1/16/2008.
- ☒ Examiner's Amendment/Comment
- ☒ Examiner's Statement of Reasons for Allowance
- ☐ Other _____

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RESPONSE TO THE AMENDMENT

The amendment filed on Nov. 09, 2007 has been acknowledged. Claims 56-60, 69, 77-78, 83, 87 have been amended. Claims 1-55, 63, 68, have been canceled. New claim 90 has been added. Claims 56-62, 64-67, 69-90 are pending.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with William P. Berrige on Jan. 17, 2008.

The application has been amended as follows:

Claim 83 (current amended) In line 1 after "further comprising" please insert --- testing effectiveness of or selecting medicinal substances, drugs or gene/prodrug systems by said method by: ---

87 (current amended) In line 2 after "polypeptide is" delete "selected from the group consisting of a polypeptide comprising the cyt region of HERV-W Env and"

90 (current amended) In line 3 please delete "select from the group consisting of a sequence which consists of a sequence" and insert ---, --- in line 5 after "SEQ ID NO: 1," please delete " and a sequence which has a length of at least five amino acids and has complete identity wit" a corresponding length fragment of the cyt region of human endogenous retrovirus HERV-W envelope protein,"

Please cancel claims 57-62, 69-70 and 77-82.

Claims 56, 64-67, 71-76, 83-90 are allowed.

2. The following is an examiner's statement of reasons for allowance: While a nucleic sequence encoding a polypeptide comprising the SEQ ID NO: 1 has been identified as a human endogenous retrovirus related 7q protein in US patent No. 6,919,438 or WO 99/67395A1, the biological function of the nucleic acid sequence consisting of SEQ ID NO: 1 is not taught or

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suggested as envelope protein having the cytoplasm domain responsible for fusion via a receptor. The published documents only teach the nucleic acid sequence comprising SEQ ID NO: 1 can be used for diagnosis of endogenous retrovirus contained in a host genome by nucleic acid detecting method such as DNA probe or a primer. No prior art teaches or suggests the polypeptide consisting of SEQ ID NO: 1 encodes the envelope protein of human endogenous retrovirus W strain, which has a biological function of binding to human neutral amino acid transporter cell surface receptor and mediating a fusion between the envelope protein expressing cell particularly via its cyt region particularly in the range from amino acid residue 448 to amino acid residue 538 of SEQ ID NO: 1.


Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bao Qun Li whose telephone number is 571-272-0904. The examiner can normally be reached on 6:30 am to 3:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Bruce Campbell can be reached on 571-272-0974. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Bao Qun Li



1/18/2008

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